

### REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-72 were pending in this application. Claims 20-72 have been cancelled without prejudice or disclaimer to the subject matter contained therein and no claims were amended. Accordingly, claims 1-19 will be pending herein upon entry of this Amendment. For at least the reasons stated below, Applicants respectfully submit that all claims pending in this application are in condition for allowance.

In the Office Action, claims 28-32 and 35-39 were rejected under 35 U.S.C. §102(b) as being anticipated by Noreen et al. (U.S. Patent No. 5,303,393). Claims 1-3, 5, 18 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Logan et al. (U.S. Patent No. 6,199,076 B1). Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen et al., in view of Logan et al., and further in view of Crosby et al. (U.S. Patent No. 6,628,928). Claims 6-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Parrella et al. (U.S. Patent No. 6,507,764 B1). Claims 11-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Steele et al. (U.S. 2002/0046084 A1) in further view of Crosby et al. and in further view of Logan et al. Claims 20-25, 27, 40-53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Steele et al., and further in view of Crosby et al. Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Steele et al., in further view of Crosby et al., and in further view of Briskman (U.S. Patent No.

5,864,579). Claims 33-34 and 66-72 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Steele et al. Claim 50 was rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Steele et al., in further view of Crosby et al., and in further view of Bernstein et al. Claims 54-61 and 63-65 were rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Crosby et al. Claim 62 was rejected under 35 U.S.C. §103(a) as being unpatentable over Noreen et al., in view of Crosby et al., and in further view of Steele et al. To the extent these grounds of rejection might still be applied to claims presently pending in this application, they are respectfully traversed.

The present application concerns interactive radio broadcasting in general with specifically embodied, but not limiting, examples in the satellite radio broadcast realm. The present invention also concerns utilizing interactive radio broadcasting to allow an entity to receive real-time feedback regarding the success of advertising and subsequently using that feedback to generate fees to the sponsors of the broadcast advertising.

Regarding the rejection of independent claims 1 and 18 and their respective dependent claims 2, 3, 5, and 19, Applicants assert that the suggested combination of Logan and Noreen does not result in the claimed method of claims 1 and 18. The Examiner attempts to assert that Logan teaches an advertising scheme similar to that recited claims 1 and 18. Logan, however, teaches a method of providing content to a user that is pre-selected by the user or based upon preferences submitted by the user. Along with that content, advertisements can be sent to that specific user based on the user's preferences. The user obtains a benefit by choosing to listen to advertising in the form of reduced fees for using the programming service offered by Logan.

The user may choose to listen to an entire advertisement or may skip past any advertisement if the user is not interested in the content of the advertisement. The system of Logan then charges the advertiser a royalty fee based upon the number of times a specific advertisement is listened to, or possibly by a total amount of play time. In any event, such advertising is pre-selected for a particular user and is only offered to that particular user.

The method of claim 1 includes, *inter alia*, "broadcasting an advertisement for a sponsor in a broadcast." Broadcasting, as defined in Webster's II New College dictionary, defines broadcast as: 1. to transmit a radio or television program; and 2. to make known over a wide area. Contrary to the Examiner's position regarding the Logan reference, Logan does not involve "broadcasting" as defined in Webster's nor as intended by Applicants. Logan's programming, including advertising, is selected by a user and the particular content is played only for that user. The term broadcast, as used in Applicants' invention, is intended to refer to programming selected by the content provider and broadcast for simultaneous play to a number of users who all receive the same programming. Accordingly, Logan's user-specific programming is not the same as broadcasting, as required by claim 1.

Assuming, *arguendo*, that Logan's programming format could be considered to be broadcast, there still is no receipt of "a quantity of electronic indications from persons who observe the advertisement, wherein the indications indicate interest in the product, and wherein the indications reference the identifier." Logan merely teaches charging a fee based on selection of the advertisement for play as well as duration of play time for the advertisement. There is no reference to a user interaction with the broadcast advertisement to reflect interest involving

selection of an identifier. Accordingly, there can be no charging of a fee for "for broadcasting...wherein the fee is based on the quantity of indications that are received" when there is no broadcast in Logan, nor is there any quantity of indications being received in Logan. Accordingly claim 1 and its dependent claims 2, 3, and 5 are allowable over the cited art of record.

Claim 18 contains similar recitations regarding broadcasting and identifiers and for similar reasons as applied above to claim 1, the combination of Logan and Noreen does not result in the invention recited in claim 18. Additionally, the Examiner asserts that "Logan teaches charging the sponsor a fee for the wireless order message received to buy the product of the sponsor" and refers to col. 21, lines 33-37, asserting that the royalty fee is the commission. Applicant respectfully disagrees with the Examiner's characterization as the royalty fee discussed in the recited passage has nothing to do with "charging the sponsor a fee for the wireless order message received to buy the product of the sponsor." The passage referenced by the Examiner deals with, as described above, charging a fee for playing of the add itself and is silent regarding any product order placed by a user. Accordingly, claim 18 and its dependent claim 19 are each allowable over the cited art of record.

Regarding the rejection of claim 4 as unpatentable in view of Noreen and Logan, further in view of Crosby, Crosby does not overcome any of the deficiencies described above with respect to claim 1. Accordingly claim 4 is allowable for at least the same reasons as claim 1.

Regarding the rejection of claims 6-10 as being unpatentable over Noreen in view of Parella, Applicants respectfully disagree at least with the Examiner's characterization of the

teaching of Parella. The Examiner asserts that Parella teaches comparing the first quantity with the second quantity and bases this assertion on the disclosure in col. 1, lines 60-67+ that refers to statistical profiles. Claim 6 specifically recites "receiving a first quantity of electronic indications from persons who observe the first advertisement" and "receiving a second quantity of electronic indications from persons who observe the second advertisement." Parella teaches utilizing demographic data in the form of statistical profiles to allow advertisers to select appropriate time slots to reach the most desired target audience for that particular advertisement. Parella is silent regarding receiving indications from persons who observe the actual advertisement. The statistical profiles in Parella merely comprise general data regarding demographics of people who visit a venue (which in this case would be similar to having information regarding the typical listeners to a certain broadcast station), but is in no way linked to the specific advertisement and interest specifically generated by that advertisement and accounted for by the system. Accordingly claim 6 and its associated dependent claims are allowable over the cited art of record.

Regarding the rejection of claims 11-17 as being unpatentable over the combination of Noreen, Steele, Logan and Crosby, Applicants assert that claim 11 contains similar limitations as claim 1 with respect to broadcasting of advertisements and charging of fees. Based upon similar argument as provided above with respect to claim 1, claim 11 is allowable over the cited combination as none of Noreen, Crosby or Steele overcomes the above-described deficiencies associated with Logan.

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In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

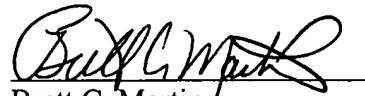
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